

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN RE:

WILLIE MCINTOSH,

Debtor

Case No: B-0581496 C-13D

RESPONSE BY TRUSTEE TO HARDSHIP DISCHARGE

NOW COMES Richard M. Hutson, II, Standing Trustee, and responds to the Debtor's request for a discharge under 11 U.S.C. §1328(b) as follows:

1. The Debtor filed this case on May 18, 2005, and the Debtor's Plan was confirmed on August 12, 2005.
2. The Debtor's Chapter 13 plan provided for monthly payments of \$241.00 for at least 36 months and was confirmed to pay all secured and priority claims in full, except long-term debts, and a dividend to general unsecured claims of twenty-five percent (25%).
3. The Debtor has paid to the Trustee approximately \$17,111.00. Secured and priority claims have been paid in full and unsecured creditors have received a dividend of approximately twenty-two percent (22%).
4. Upon information and belief, the Debtor's failure to complete payments under the plan is due to circumstances for which the Debtor should not justly be held accountable in that the Debtor estimated unsecured claims of approximately \$14,602.00; however, filed unsecured claims have totaled \$42,783.59 primarily due to a deficiency claim filed by Nuvel Credit in the amount of \$31,433.92.
5. The value of property distributed under the Chapter 13 plan on account of unsecured claims is not less than that which would have been paid if the estate of the Debtor had been liquidated under Chapter 7 since the liquidated value of the estate, after exemptions, was zero on the effective date of the plan.
6. Modification of the Chapter 13 plan under 11 U.S.C. §1329 is not practicable in that the plan has run over the 60 month time limit imposed by 11 U.S.C. §1322(d).

WHEREFORE, the Standing Trustee does not object to the entry of a hardship discharge pursuant to 11 U.S.C. §1328(b).

This the 1st day of August, 2011.

s/Benjamin E. Lovell

Benjamin E. Lovell

Attorney for the Trustee

P.O. Box 3613

Durham, N.C. 27702

State Bar No: 23266

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, Willie D. McIntosh, HHC 2nd BDE, Ft. Bragg, NC 28310, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 1st day of August, 2011.

s/Benjamin E. Lovell

Benjamin E. Lovell, Esq.

Attorney for the Standing Trustee